

Application No. 10/603,221
Amendment Dtd 08/02/2004
Reply to Office Action Dtd 06/02/2004

REMARKS/ARGUMENTS

In the specification, the Abstract has been amended to correct minor editorial problems.

Claims 1-3 and 5-7, 10-12, and 15-16 remain in this application. Claims 4, 8-9, and 13-14 have been canceled. Claims 1-3, 5-6, 10, and 15-16 have been amended. Claims 17-19 have been added.

The examiner has acknowledged that claims 7 and 15 are directed to allowable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Specification:

The Examiner has objected to the abstract of the disclosure because legal phraseology such as "means" has been used in the abstract. The Applicant has accordingly submitted an amended abstract in which the legal phraseology has been amended. The Applicant asserts that no new matter has been added thereby.

Meredith:

The disclosure of Meredith (U.S. Pat. No. 2,809,604) describes a boat sculling oar having an arm 1 with a first end connected to a yoke 2 and a second end secured to the vertical shaft 19. A generally rectangular shaped end (fin) 8 is pivotably connected to the yoke 5 about a vertical axis for use as a fin. The fin of Meredith is shown and described as a unitary structure of a single panel; it does not pivot vertically about a horizontal axis, but is connected to arm 1 "permits rod 1 to be folded back about pivot pin 18 parallel to shaft 19 as shown by the dot and dash lines" (col 2, lines 28-30), i.e. the arm 1 and end

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(fin) 8 combination pivots vertically about a horizontal axis while the end (fin) 8 pivots about a vertical axis only. Furthermore, the horizontal axis about which the arm 1 and end (fin) 8 combination pivots runs through the shaft 19 but not through the end (fin) 8.

Kruse:

The disclosure of Kruse (U.S. Pat. No. 2,365,415) describes a boat sculling oar having a flexible propeller blade 24 loosely encompassing the pendent, vertical end portion of a horizontally extending shaft 22. The blade 24 is shown to be of unitary construction made from a single panel. The blade 24 pivots in a horizontal direction about a vertical axis and does not pivot vertically about a horizontal axis. As such, Kruse does not disclose the a horizontal axis running through both the blade 24 and the shaft 22 about which the blade vertically pivots.

Heinz:

The disclosure of Heinz (German Patent No. DE 38 41 624 A1) describes a hand propulsion device for a boat, the device having a fin 5 comprised of a single unitary panel (FIG. A) and not of a plurality of overlapping panels. The fin 5 is connected by butt hinges (Scharniere) 6 to a butt hinge holder (Schamierhalter) 4 for horizontal movement about a vertical axis, the holder 4 pivotally connected to an inbetween holder plate (Zwischenhalter) 3 for vertical movement about a horizontal axis.

Michiels:

The disclosure of Michiels (U.S. Pat No. 1,704,400) describes a hand-driven propulsion rudder for a small boat, where the rudder is comprised of a vertically extending

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fork 8 with its distal end horizontally bent with two blades 14, 15 attached to the distal end by "a member 11 equipped with two axles 12 and 13 arranged at an angle with respect to each other and situated in a plane perpendicular to the main axle of the said member serving for the fixation of the fork 8. (col 1, ines 48-53). The two blades 14, 15 are arranged on the two axles 12 and 13. The two blades 14, 15 are arranged in a non-overlapping manner in a vertical plane, and "the blades are provided in their respective opposing lower and upper sides with recesses and hooks which partially close said recesses to permit connection of the blades together by suitable means such a india-rubber ring 16 and to assure thereby the situation of the axles 12, 13 in the same plane." (col. 1, lines 56 thru col 2, lines 52-62). The two blades 14, 15 are held in the same plane and are prevented from overlapping by the presence of the ring 16. It is clear from the disclosure that member 11 is not intended to rotate about a horizontal axis, and thus the blades 14, 15 only pivot horizontally about axles 12, 13, and not vertically as a unit about a horizontal axis passing through member 11.

Claim Rejections — 35 USC §103:

Claims 1-3, 5, 6, 8, 13, 14, and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Meredith in view of Kruse. The Applicant has amended Claim 1 to replace the lines describing the propulsion means by a description of

"a propulsion means a fin comprised of a plurality of overlapping panels attached to the lower end, each panel independently pivotable about a second common second horizontal axis extending through both the lower end and the panels, wherein the propulsion means plurality of panels may be pivoted from a third position extending generally horizontally from the lower end for operational deployment to a fourth position generally adjacent to the vertical stock for compact storage when not operationally deployed."
(Amended Claim 1, lines 14-18).

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Support for the amendment is contained in the Applicant's original Claim 9, the abstract of the disclosure, and FIGS. 1, 2, 3, and 6. The Applicant has also amended Claim 16, lines 12-16, to read as follows: "a flexible fin comprising two overlapping panels, the fin captured between two parallel plates fixedly attached to the lower end and extending in a generally perpendicularly perpendicular direction from the lower end, the fin pivotably attached about a second horizontal axis passing through the plates and the panels so that the plates frictionally capture the fin therebetween". Support for the amendment is found in paragraphs 33 and 35 of the specification. Finally, Claims 2, 3, 5, and 6 have been amended to depend upon Amended Claim 15, where Amended Claim 15 has been amended to include the limitations of the original Claim 1 along with the limitations of all intervening claims and is thus allowable according to the Examiner's remarks. Claims 8-9 have been canceled. Claims 13-14 have also been canceled (since their limitations have been included in Amended Claim 15.)

Neither Meredith nor Kruse teach, suggest, or disclose the use of a plurality of overlapping panels for the fin. Furthermore, neither Meredith nor Kruse teach, suggest, or disclose a fin that is vertically pivotable about a horizontal axis that runs through the fin. Amended Claim 1 recites "a plurality of overlapping panels attached to the lower end, each panel independently pivotable about a common second horizontal axis extending through both the lower end and the panels" (Amended Claim 1, lines 14-16). Therefore, since Amended Claim 1 includes a limitation that is not taught by either Meredith nor Kruse, a *prima facie* case for a §103 rejection cannot be made and the claim should be allowable. Amended Claims 2 and 3 and Original Claim 8 should also be allowable if Amended Claim 1 is allowable since they would now depend upon an allowable claim. Amended Claim 15 is now an independent claim that should be allowable, and Amended Claims 5 and 6 now depend upon an Amended Claim 15 and should therefore be allowable. Claims 8 and 13-14 have been canceled.

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Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Meredith and Kruse as applied to claim 1 above, and further in view of DE 38 41 624 A1. Further discussion of Claim 4 is moot since it has been canceled by the applicant.

Claims 9-12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Meredith and Kruse as applied to claim 1 above, and further in view of Michiels. The Applicant has amended Claim 1 to include the provision of "a plurality of overlapping panels attached to the lower end, each panel independently pivotable about a common second horizontal axis extending through both the lower end and the panels" (Amended Claim 1, lines 14-16). Neither Meredith, Kruse, nor Michiels teaches, suggests, or discloses, either in combination or individually, the use of a plurality of overlapping panels for the fin. Furthermore, neither Meredith, Kruse, nor Michiels teaches, suggests, or discloses, either in combination or individually, fins that pivot about a common horizontal axis extending through both the lower end and the panels comprising the fin. In particular, Michiels does not pivot vertically about a horizontal axis at all. Therefore, since Amended Claim 1 includes a limitation that is not taught by Meredith, Kruse, or Michiels, either separately or in combination, and since Claim 10-12 depend upon Amended Claim 1, then a *prima facie* case for a §103 rejection cannot be made and Claims 10-12 should be allowable; Claim 9 has been canceled.


CONCLUSION:

Claim 15 has been allowed by the Examiner if rewritten in independent form, for which the Applicant thanks the Examiner. Claim 7 has been allowed by the Examiner if rewritten to include the limitations of all intervening claims; it has equivalently been rewritten to depend upon Claim 15. Reconsideration and withdrawal of the Office Action with respect to Claims 1-3, 5-7, 10-12, and 15-16 and allowance of Claims 1-3, 5-7, and 10-12, and 15-19 is hereby requested.

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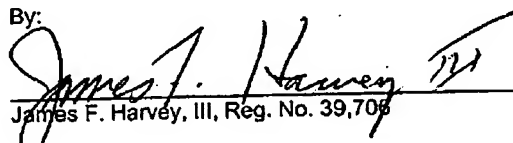
In the event the examiner wishes to discuss any aspect of this response, please contact the attorney at the telephone number identified below.

Respectfully submitted,

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. (703) 872-9306) on September 2, 2004.

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